

AMENDED IN SENATE MAY 4, 2009
AMENDED IN SENATE APRIL 16, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 425

Introduced by Senator Simitian

February 26, 2009

An act to add Sections 17053.58, 17284, 23658, and 24343.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as amended, Simitian. Personal and corporate income taxes: deductions: parking: credits: ridesharing expenses.

The Personal Income Tax Law and the Corporation Tax Law allow various deductions in computing the income that is subject to the taxes imposed by those laws. Existing law allows an employer to deduct its expenses in carrying out a parking subsidy and a parking cash-out program, as defined, for employees.

This bill would disallow a deduction for expenses of specified employers for parking subsidies unless all employees provided with a parking subsidy are offered a parking cash-out program in accordance with a specified statute.

The Personal Income Tax Law and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit under both those laws, for taxable years beginning on or after January 1, 2009, in an amount not to exceed \$1,500 for qualified commute reduction expenditures, as defined, for specified small-business taxpayers.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17053.58 is added to the Revenue and
2 Taxation Code, to read:
3 17053.58. (a) For taxable years beginning on or after January
4 1, 2009, there shall be allowed to a taxpayer as a credit against the
5 “net tax,” as defined in Section 17039, an amount equal to 80
6 percent of the costs paid or incurred during the taxable year by the
7 taxpayer for qualified commute reduction expenditures, not to
8 exceed one thousand five hundred dollars (\$1,500).
9 (b) For purposes of this section:
10 (1) “Buspool” means 16 or more persons commuting on a daily
11 basis to and from work by means of a vehicle with a seating
12 arrangement designed to carry more than 15 adult passengers.
13 (2) “Carpool” means two or more persons commuting on a daily
14 basis to and from work by means of a vehicle with a seating
15 arrangement designed to carry less than seven adults, including
16 the driver.
17 (3) “Employee” means a person employed by the taxpayer on
18 a full-time basis, who performs, at a minimum, 30 hours per week
19 for compensation.
20 (4) “Private commuter bus” means a highway vehicle which
21 meets all of the following criteria:
22 (A) Has a seating capacity of at least seven adults, including
23 the driver.
24 (B) At least 50 percent of the mileage of which can be
25 reasonably expected to be used for the purpose of transporting
26 employees to and from work.
27 (C) Is acquired by the taxpayer on or after the date of enactment
28 of this section.
29 (D) With respect to which the taxpayer makes an election under
30 this paragraph on his or her return for the taxable year in which
31 the vehicle is placed in service.
32 (5) “Qualified commute reduction expenditure” means costs
33 paid or incurred by the taxpayer for any of the following:
34 (A) Subsidizing employees commuting in vanpools.

1 (B) Subsidizing employees commuting in private commuter
2 buses or buspools.

3 (C) Subsidizing monthly transit passes for its employees or for
4 use by the employee's dependents, except that no deduction shall
5 be allowed for transit passes issued for the use of elementary and
6 secondary school students.

7 (D) Subsidizing employees commuting in subscription taxipools.

8 (E) Subsidizing employees commuting in a carpool.

9 (F) Subsidizing employees commuting in a ferry.

10 (G) Providing free or subsidized parking to carpools, vanpools,
11 or any other vehicle used in a ridesharing arrangement within
12 California.

13 ~~(H) Making facility improvements to encourage employees, for~~
14 ~~the purpose of commuting from their homes, to use bicycles.~~

15 ~~(I) Making facility improvements to encourage employees to,~~
16 ~~or subsidizing employees who already use, an alternative~~
17 ~~transportation method, other than a method specified in this~~
18 ~~paragraph, that reduces the use of a motor vehicle by a single~~
19 ~~occupant to travel to or from that employee's place of employment.~~

20 *(H) Making facility improvements to encourage employees to*
21 *use, or subsidizing employees who already use, an alternative*
22 *transportation method other than a transportation method specified*
23 *in this paragraph, that reduces the use of a motor vehicle by a*
24 *single occupant to travel to or from that employee's place of*
25 *employment.*

26 *(I) Making facility improvements to encourage employees, for*
27 *the purpose of commuting to or from that employee's place of*
28 *employment, to participate in ridesharing arrangements, to bicycle,*
29 *or to walk. These facility improvements may include, but are not*
30 *limited to, any of the following:*

31 *(i) The construction of bus shelters.*

32 *(ii) The installation of bicycle racks and other bicycle related*
33 *facilities, such as showers and locker rooms.*

34 *(iii) The modifications of parking lots to provide carpools,*
35 *vanpools, or buspools with preferential treatment.*

36 (J) Subsidizing employees who travel to or from a
37 telecommuting facility.

38 (6) "Subscription taxipool" means a type of service in which
39 employers or groups of employees contract with a public or private
40 taxi operator to provide daily commuter service for a group of

preassembled subscribers on a prepaid or daily fare basis following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(7) “Taxpayer” means a person or entity engaged in a trade or business within California who employs a maximum of 20 employees. “Taxpayer” shall not include the state, a county, a city, a city and county, a special district as defined in Section 12712 of the Government Code, a school district, a community college district, the California State University system, or the University of California.

(8) “Transit” means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(9) “Transit pass” means any purchase of transit rides that entitles the holder to any number of transit rides to and from the workplace, whether at a discount rate or the base fare rate.

(10) “Vanpool” means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver, that is used to transport those persons who commute to and from work on a regular basis.

(c) This credit shall be in lieu of any other deduction which the taxpayer may otherwise claim pursuant to this part with respect to the costs paid or incurred during the taxable year by the taxpayer for qualified commute reduction expenditures.

(d) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section. ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.~~ *of this section.*

(e) In the case where a credit allowed under this section exceeds the “net tax,” the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.

SEC. 2. Section 17284 is added to the Revenue and Taxation Code, to read:

17284. (a) For taxable years beginning on or after January 1, 2009, no deduction is allowed under this part for amounts paid or incurred by an employer subject to Section 43845 of the Health

1 and Safety Code for parking subsidies unless all employees of the
2 employer provided with a parking subsidy are offered a parking
3 cash-out program in accordance with Section 43845 of the Health
4 and Safety Code.

5 (b) For purposes of this section, “parking subsidy” and “parking
6 cash-out program” have the same ~~meaning~~ *meanings* as defined
7 in Section 43845 of the Health and Safety Code.

8 SEC. 3. Section 23658 is added to the Revenue and Taxation
9 Code, to read:

10 23658. (a) For taxable years beginning on or after January 1,
11 2009, there shall be allowed to a taxpayer as a credit against the
12 “tax,” as defined in Section 23036, an amount equal to 80 percent
13 of the costs paid or incurred during the taxable year by the taxpayer
14 for qualified commute reduction expenditures, not to exceed one
15 thousand five hundred dollars (\$1,500).

16 (b) For purposes of this section:

17 (1) “Buspool” means 16 or more persons commuting on a daily
18 basis to and from work by means of a vehicle with a seating
19 arrangement designed to carry more than 15 adult passengers.

20 (2) “Carpool” means two or more persons commuting on a daily
21 basis to and from work by means of a vehicle with a seating
22 arrangement designed to carry less than seven adults, including
23 the driver.

24 (3) “Employee” means a person employed by the taxpayer on
25 a full-time basis, who performs, at a minimum, 30 hours per week
26 for compensation.

27 (4) “Private commuter bus” means a highway vehicle which
28 meets all of the following criteria:

29 (A) Has a seating capacity of at least seven adults, including
30 the driver.

31 (B) At least 50 percent of the mileage of which can be
32 reasonably expected to be used for the purpose of transporting
33 employees to and from work.

34 (C) Is acquired by the taxpayer on or after the date of enactment
35 of this section.

36 (D) With respect to which the taxpayer makes an election under
37 this paragraph on his or her return for the taxable year in which
38 the vehicle is placed in service.

39 (5) “Qualified commute reduction expenditure” means costs
40 paid or incurred by the taxpayer for any of the following:

1 (A) Subsidizing employees commuting in vanpools.

2 (B) Subsidizing employees commuting in private commuter
3 buses or buspools.

4 (C) Subsidizing monthly transit passes for its employees or for
5 use by the employee's dependents, except that no deduction shall
6 be allowed for transit passes issued for the use of elementary and
7 secondary school students.

8 (D) Subsidizing employees commuting in subscription taxipools.

9 (E) Subsidizing employees commuting in a carpool.

10 (F) Subsidizing employees commuting in a ferry.

11 (G) Providing free or preferential parking to carpools, vanpools,
12 or any other vehicle used in a ridesharing arrangement within
13 California.

14 ~~(H) Making facility improvements to encourage employees, for~~
15 ~~the purpose of commuting from their homes, to use bicycles.~~

16 ~~(I) Making facility improvements to encourage employees to,~~
17 ~~or subsidizing employees who already use, an alternative~~
18 ~~transportation method, other than a method specified in this~~
19 ~~paragraph, that reduces the use of a motor vehicle by a single~~
20 ~~occupant to travel to or from that employee's place of employment.~~

21 *(H) Making facility improvements to encourage employees to*
22 *use, or subsidizing employees who already use, an alternative*
23 *transportation method other than a transportation method specified*
24 *in this paragraph, that reduces the use of a motor vehicle by a*
25 *single occupant to travel to or from that employee's place of*
26 *employment.*

27 *(I) Making facility improvements to encourage employees, for*
28 *the purpose of commuting to or from that employee's place of*
29 *employment, to participate in ridesharing arrangements, to bicycle,*
30 *or to walk. These facility improvements may include, but are not*
31 *limited to, any of the following:*

32 *(i) The construction of bus shelters.*

33 *(ii) The installation of bicycle racks and other bicycle related*
34 *facilities, such as showers and locker rooms.*

35 *(iii) The modifications of parking lots to provide carpools,*
36 *vanpools, or buspools with preferential treatment.*

37 (J) Subsidizing employees who travel to or from a
38 telecommuting facility.

39 (6) "Subscription taxipool" means a type of service in which
40 employers or groups of employees contract with a public or private

1 taxi operator to provide daily commuter service for a group of
2 preassembled subscribers on a prepaid or daily fare basis following
3 a relatively fixed route and schedule tailored to meet the needs of
4 the subscribers.

5 (7) "Taxpayer" means a person or entity engaged in a trade or
6 business within California who employs a maximum of 20
7 employees. "Taxpayer" shall not include the state, a county, a city,
8 a city and county, a special district as defined in Section 12712 of
9 the Government Code, a school district, a community college
10 district, the California State University system, or the University
11 of California.

12 (8) "Transit" means transportation service for use by the general
13 public that utilizes buses, railcars, or ferries with a seating capacity
14 of 16 or more persons.

15 (9) "Transit pass" means any purchase of transit rides that
16 entitles the holder to any number of transit rides to and from the
17 workplace, whether at a discount rate or the base fare rate.

18 (10) "Vanpool" means seven or more persons commuting on a
19 daily basis to and from work by means of a vehicle with a seating
20 arrangement designed to carry 7 to 15 adults, including the driver,
21 that is used to transport those persons who commute to and from
22 work on a regular basis.

23 (c) This credit shall be in lieu of any other deduction which the
24 taxpayer may otherwise claim pursuant to this part with respect to
25 the costs paid or incurred during the taxable year by the taxpayer
26 for qualified commute reduction expenditures.

27 (d) The Franchise Tax Board may prescribe rules, guidelines,
28 or procedures necessary or appropriate to carry out the purposes
29 ~~of this section. Chapter 3.5 (commencing with Section 11340) of~~
30 ~~Part 1 of Division 3 of Title 2 of the Government Code does not~~
31 ~~apply to any rule, guideline, or procedure prescribed by the~~
32 ~~Franchise Tax Board pursuant to this section.~~ *of this section.*

33 (e) In the case where a credit allowed under this section exceeds
34 the "tax," the excess credit may be carried over to reduce the "tax"
35 in the following taxable year, and succeeding taxable years, if
36 necessary, until the credit has been exhausted.

37 SEC. 4. Section 24343.1 is added to the Revenue and Taxation
38 Code, to read:

39 24343.1. (a) For taxable years beginning on or after January
40 1, 2009, no deduction is allowed under this part for amounts paid

1 or incurred by an employer subject to Section 43845 of the Health
2 and Safety Code for parking subsidies unless all employees of the
3 employer provided with a parking subsidy are offered a parking
4 cash-out program in accordance with Section 43845 of the Health
5 and Safety Code.

6 (b) For purposes of this section, “parking subsidy” and “parking
7 cash-out program” have the same ~~meaning~~ *meanings* as defined
8 in Section 43845 of the Health and Safety Code.

9 SEC. 5. This act provides for a tax levy within the meaning of
10 Article IV of the Constitution and shall go into immediate effect.